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Albert L. Schmeiser  
Schmeiser, Olsen & Watts  
18 East University Drive, Suite 101  
Mesa, AZ 85201

EXAMINER

SOTOMAYOR, JOHN

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/778,401

Applicant(s)

BARNUM, MICHEAL

Examiner

John L Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 rejected under 35 U.S.C. 102(b) as being anticipated by Harp, Jr. (US 5,585,612).

3. Regarding claim 1, Harp, Jr. discloses a voting device in the configuration of a kiosk that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter (Col 2, lines 25-63). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49) and a recording device to record information input by the user (Col 2, lines 56-63).

4. Regarding claim 2, Harp, Jr. discloses that the information retained for output to the user is ballot information (Col 2, lines 31-35) and that the information recorded is ballot selections (Col 2, lines 56-63).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp, Jr. in view of McClure et al (US 6,250,548).

8. Regarding claims 3 and 9, Harp, Jr. does not specifically disclose that the storage and recording device comprise a computer hard drive. However, McClure et al teaches that a voting device may use a computer hard drive as a storage and recording device for the convenience of the voter (Col 4, lines 45-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a computer hard drive as a means of storing and recording voter information and vote selections. McClure et al shows that an electronic voting system as set forth by Harp, Jr. is optimized for use by disabled persons by providing computerized input and output devices.

9. Regarding claim 4, Harp, Jr. discloses a voting device in the configuration of a kiosk that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter where the actions required differ for each sense that is impaired (Col 2, lines 25-63). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49).

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and a recording device to record information input by the user (Col 2, lines 56-63). Harp, Jr. does not specifically disclose that a computer is used to process ballot information and selections, or that the recording and output devices are operably connected to the computer. However, McClure et al teaches that a computer system is preferentially used to operate an electronic voting system that has recording and storage devices for information dissemination and vote recordation operably connected to the computer system (Col 4, lines 22-44). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system adapted for use by handicapped voters in which different input and output devices are used based upon the sense that is to be augmented, and to provide a central computer with recording and storage devices for information dissemination and vote recordation operably connected to the computer system. McClure et al shows that an electronic voting system as set forth by Harp, Jr. is adapted for use by disabled persons by providing computerized input and output devices.

10. Regarding claim 5, Harp, Jr. does not specifically disclose that a touch sensitive screen is incorporated into the electronic voting system. However, McClure et al teaches that one of the devices used in the electronic voting system may be a touch sensitive screed, as well as a plurality of other existing screen technologies (Col 18, lines 5-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a touch sensitive screen for use in voting. McClure et al shows that an electronic voting system such as that set forth by Harp, Jr. may use a touch sensitive screen to gather vote selection input.

11. Regarding claim 6, Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first,

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second and third output device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third output device to accommodate a user's third sense, different from a first and second sense.

12. Regarding claim 7, Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 46-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third input device to accommodate a user's third physical action, different from a first and second physical action.

13. Regarding claim 8, Applicant is advised that should claim 7 be found allowable, claim 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

14. Regarding claim 10, Harp, Jr. does not specifically disclose that the recording device comprise a printer. However, McClure et al teaches that a voting device may use a computer printer to produce a graphical ballot overlay and the subsequent ballot used for vote recordation (Col 29, lines 6-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a printer device as a means of creating a physical ballot and

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recording voter information and vote selections. McClure et al shows that an electronic voting system as set forth by Harp, Jr. is optimized for use by disabled persons by providing computerized output devices.

15. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp, Jr. in view of McClure et al (US 6,250,548) in further view of Sarner et al (US 5,666,765) in further view of Trotta et al (US 5,072,999).

16. Regarding claim 11, Harp, Jr. discloses an electronic voting system with a canopy portion affixed to the case, a back face, left face and right face affixed to the back face and abutting the canopy without being permanently secured thereto (Fig. 1), that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter where the actions required differ for each sense that is impaired (Col 2, lines 25-63). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49) and a recording device to record information input by the user (Col 2, lines 56-63). Harp, Jr. does not specifically disclose that the voting system frame has a base with at least two telescoping legs with attached wheels, and vertical rods extending upward, or a top face affixed to the canopy, or a front face hingedly affixed to the top face. Harp, Jr. also does not specifically disclose that a computer is used to process ballot information and selections, or that the recording and output devices are operably connected to the computer. However, Sarner et al teaches a portable voting booth for use by handicapped individuals that has a base with at least two legs capable of extending telescopically. Also, Trotta et al teaches a portable voting booth with wheels affixed to the bottom of the frame, a top face affixed to a canopy portion of the frame (Fig. 1 and Fig. 8) and a

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front face in two portions hingedly affixed to the left and right faces of the frame, the front face opening outward (Fig. 7). It is a matter of design choice as to whether the front face should open side to side, or upward and fold over the top in order to provide front access to the voting system contained within the voting frame and enclosure. McClure et al teaches that a computer system is preferentially used to operate an electronic voting system that has recording and storage devices for information dissemination and vote recordation operably connected to the computer system (Col 4, lines 22-44). Therefore, it would have obvious to one of ordinary skill in the art to provide a voting system as disclosed by Harp, Jr. with a frame designed for portability and ease of access and use by handicapped individuals as taught by Sarner et al and Trotta et al, additionally, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system adapted for use by handicapped voters in which different input and output devices are used based upon the sense that is to be augmented, and to provide a central computer with recording and storage devices for information dissemination and vote recordation operably connected to the computer system. The electronic voting system set forth by Harp, Jr. has a portable case with the same intended function as the voting systems disclosed by Trotta et al and Sarner et al, with functions extended by McClure, to provide readily available voting information and ballot collection from voters whose one or several senses may be impaired due to a handicap.

17. Regarding claim 12, Regarding claim 5, Harp, Jr. does not specifically disclose that a touch sensitive screen is incorporated into the electronic voting system. However, McClure et al teaches that one of the devices used in the electronic voting system may be a touch sensitive screen, as well as a plurality of other existing screen technologies (Col 18, lines 5-11).



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Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a touch sensitive screen for use in voting. McClure et al shows that an electronic voting system such as that set forth by Harp, Jr. may use a touch sensitive screen to gather vote selection input.

18. Regarding claim 13, Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third output device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third output device to accommodate a user's third sense, different from a first and second sense.

19. Regarding claim 14, Harp, Jr. discloses a first compartment within the box frame wherein the electronic voting device, including recording device and storage device are located. Harp, Jr. does not specifically disclose a first door allowing access to a second compartment through the back face, a second compartment for storage, or a second door allowing access to the second compartment through the back face. However, Trotta et al teaches a voting enclosure with a plurality of compartments all of which are accessible through a first and second door in the back face (Fig. 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a frame having a plurality of compartments for storage of voting devices and accessible through a first and second door in the back face. The electronic voting system described by Harp, Jr. has a portable frame that would achieve optimized use for handicapped persons by implementing the teachings of Trotta et al.

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20. Regarding claim 15, Harp, Jr. does not specifically disclose a space within the interior of the box wherein input and output devices may be positioned when the apparatus is in use.

However, Trotta et al teaches a plurality of compartments within the frame with open space used for positioning input and output devices used for the recordation of ballots when the apparatus is in use (Fig. 6). Therefore, it would have been obvious to modify the portable frame set forth by Harp, Jr. with the frame teachings in Trotta et al to provide a frame with a plurality of compartments with space between the compartments where input and output devices could be partitioned when the system is in use. The electronic voting system described by Harp, Jr. has a portable frame that would achieve optimized use for handicapped persons by implementing the teachings of Trotta et al.

21. Regarding claim 16, Harp, Jr. discloses an electronic voting system with the ability to take input from users in formats that are non-standard (Col 3, lines 36-42). Harp, Jr. does not specifically disclose that the electronic voting system may receive auxiliary input from a peripheral device supplied by the voter. However, McClure et al teaches an electronic voting system with a plurality of peripheral interfaces that are available for use with peripheral devices regardless of who supplies the device (Col 11, lines 60-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an interface in the system described by McClure for use with a peripheral device used by a voter to accommodate a handicap specific to that user as described by Harp, Jr. Providing a plurality of peripheral interfaces for the convenience of voters as set forth by McClure achieves the goal of providing vote recordation for the greatest number of handicapped voters as set forth by Harp, Jr.

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22. Regarding claim 17, Harp, Jr. discloses an electronic voting system in which the input and output devices that make up the voting system are moveably positioned using two adjustable position support arms connected to the voting apparatus (Fig. 1, item 44).

23. Regarding claim 18, Harp, Jr. discloses an electronic voting system in which a telescoping curtain rod attached to the top may be extended outwardly and a curtain affixed thereto to substantially obscure a voter using the apparatus from others (Fig. 1, item 206). Harp, Jr. does not specifically disclose that the telescoping curtain rod is attached to the canopy.

However, Trotta et al teaches that the canopy is the uppermost portion of the voting booth and is used to assist in obscuring the identity of the voter (Fig. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an obscuring curtain attached to the uppermost portion of the voting booth, the canopy, to provide the maximum visual protection for users of the system. The obscuring method set forth by Harp, Jr. is improved by attachment to a canopy as provided by Trotta et al providing for greater protection of voting results.

24. Regarding claim 6, Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third output device to accommodate a user's third physical action, different from a first and second physical action.

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25. Regarding claim 20, Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 46-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third input device to accommodate a user's third sense, different from a first and second sense.

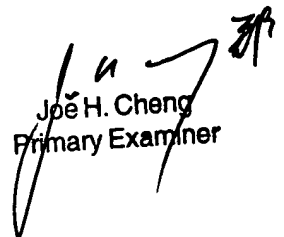
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 7:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 703-308-2217. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls  
August 15, 2002

  
Joe H. Cheng  
Primary Examiner